

Decision **PROPOSED DECISION OF ALJ ROSCOW** (Mailed 6/6/14)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902E) for Approval of:
(i) Contract Administration, Least Cost Dispatch and Power Procurement Activities in 2010, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account and Transition Cost Balancing Account in 2010 and (iii) Costs Recorded in Related Regulatory Accounts in 2010.

Application 11-06-003
(Filed June 1, 2011)

(See Appendix A for List of Appearances.)

**DECISION APPROVING SAN DIEGO GAS & ELECTRIC COMPANY'S
2010 ENERGY RESOURCE RECOVERY ACCOUNT COSTS
AND RELATED MATTERS**

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Appendix A - Service List

**DECISION APPROVING SAN DIEGO GAS & ELECTRIC COMPANY'S
2010 ENERGY RESOURCE RECOVERY ACCOUNT COSTS
AND RELATED MATTERS**

1. Summary

This decision addresses compliance and reasonableness issues related to San Diego Gas & Electric Company's (SDG&E) Energy Resource Recovery Account (ERRA) for the Record Period January 1, 2010 through December 31, 2010. This decision finds that SDG&E's fuel procurement for its utility-retained generation, its administration of power purchase agreements, and – in the absence of any showing to the contrary – its least-cost dispatch (LCD) and power procurement activities for the period beginning January 1, 2010 and ending December 31, 2010 complied with SDG&E's Long-Term Procurement Plan. We also find that SDG&E's procurement-related revenue and expenses recorded during the record period in its ERRA Balancing Account and Transition Cost Balancing Account are reasonable and prudent. We find that SDG&E's entries to its Independent Evaluator Memorandum Account and its Renewables Portfolio Standard Cost Memorandum Account are accurate and reasonable. SDG&E is authorized to recover in rates, the 2010 recorded costs of \$505,958 in the Independent Evaluator Memorandum Account and the 2010 recorded costs of \$67,116 in the Renewable Portfolio Standard Memorandum Account.

The Commission's Energy Division is directed to facilitate a workshop where SDG&E and other interested parties shall develop proposed criteria that should be used to determine what constitutes LCD compliance, and the resulting methodology SDG&E should follow to assemble a showing to meet its burden to prove such compliance for use during the 2014 record period and subsequent inclusion in SDG&E's ERRA compliance application in 2015. This proceeding shall remain open to consider SDG&E's report on that workshop.

2. Procedural History

Public Utilities (Pub. Util.) Code Section 454.5(d)(2) provides for a procurement plan that would accomplish, among others, the following objective:

Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract, and contract disputes that may arise are reasonably resolved.

In Decision (D.) 02-10-062, the Commission implemented Section 454.5(d) by establishing Energy Resource Recovery Account (ERRA) balancing accounts for San Diego Gas & Electric Company (SDG&E) and other utilities, requiring them to track fuel and purchased power revenues against actual recorded costs and to establish an annual ERRA compliance review for the previous year and an annual ERRA fuel and purchased power revenue requirement for the following year.

In D.07-12-052, the Commission approved with modifications SDG&E's Long-Term Procurement Plan (LTPP) for 2007 through 2016. Resolution E-4189, effective September 4, 2008, approved SDG&E's conformed 2006 LTPP, which was the basis for SDG&E's 2010 compliance activities.

On June 1, 2011, SDG&E filed Application (A.) 11-06-003, its "Application for Approval of: (i) Contract Administration, LCD and Power Procurement Activities in 2010, (ii) Costs Related to those Activities Recorded to the Energy Resource Recovery Account and Transition Cost Balancing Account in 2010 and (iii) Costs Recorded in Related Regulatory Accounts in 2010" (hereby referred to as Application). SDG&E served three volumes of testimony in support of its application.

The Commission's Division of Ratepayer Advocates (DRA) protested SDG&E's application on July 5, 2011.¹ Pacific Gas and Electric Company (PG&E) filed a motion for party status on January 6, 2012; that motion was denied by the Administrative Law Judge (ALJ), without prejudice, on January 12, 2012, due to PG&E's failure to identify its interest that would be affected by this proceeding and whether and how it intended to participate in the proceeding. PG&E renewed its motion on the first day of hearings, providing this information as required by Rule 1.4(b); the ALJ granted that motion.² We affirm both actions here. A prehearing conference was held on August 3, 2011. The Scoping Memo was issued on November 30, 2011. The Scoping Memo identified three issues for this proceeding:

1. whether during 2010, SDG&E prudently administered its portfolio of contracts and generation resources and dispatched the energy in a least-cost manner in compliance with SDG&E's Commission-approved LTTP;
2. whether the 2010 entries and costs recorded in SDG&E's ERRAs, Transition Cost Balancing Account (TCBA), Renewables Portfolio Standard Memorandum Account (RPSMA) and Independent Evaluator Memorandum Account (IEMA) are appropriate and correctly stated, and in compliance with relevant Commission Decisions and Resolutions; and
3. whether rate recovery for 2010 costs entered in SDG&E's RPSMA and IEMA is authorized.

¹ On September 26, 2013, DRA was renamed the Office of Ratepayer Advocates (ORA) pursuant to Senate Bill 96 (Stats. 2013, ch. 356).

² All references to rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at http://docs.cpuc.ca.gov/WORD_PDF/AGENDA_DECISION/143256.PDF.

In its original Application, SDG&E also requested approval of 2010 costs recorded to its Market Redesign and Technology Upgrade Memorandum Account (MRTUMA). However, pursuant to a Joint Ruling issued on June 23, 2011, review of SDG&E's MRTUMA was removed to a consolidated proceeding, A.12-01-014. Accordingly, SDG&E's MRTUMA is not an issue in this proceeding.

DRA served testimony on December 16, 2011. SDG&E served Rebuttal Testimony on February 9 and 10, 2012. Evidentiary hearings took place on March 6, 2012.

SDG&E provided public versions of its prepared testimony (Exhibits SDG&E-1, SDG&E-2, and SDG&E-3) and confidential (unredacted) versions (Exhibits SDG&E-1-C, SDG&E-2-C, and SDG&E-3-C) submitted under Pub. Util. Code §§ 454.5(g) and 583. DRA also provided a public (redacted) version of its prepared testimony (Exhibit DRA-1) and a confidential (unredacted) version (Exhibit DRA-1-C). The public and confidential versions of SDG&E's Rebuttal Testimony are SDG&E-4 and SDG&E-5, and SDG&E-4-C and SDG&E-5-C, respectively. Exhibits SDG&E-1-C, SDG&E-2-C, SDG&E-3-C, SDG&E-4-C and SDG&E-5-C, and DRA-1-C, the confidential testimony, shall be filed under seal and remain sealed for a period of three years from the effective date of this decision.

On May 1, 2013, the assigned ALJ issued a Ruling Setting Aside Submission and Requesting Additional Information. The ruling sought the exact dollar amount that is equal to two times SDG&E's administrative expenses for all procurement functions in 2010. SDG&E provided this information on May 15, 2013. SDG&E's response is marked as Exhibit SDG&E-9 and received into evidence.

3. Positions of the Parties

As a threshold matter, SDG&E and DRA devoted considerable space and effort in their briefs to arguments regarding applicable legal standards in this proceeding. This effort was misplaced, as our standard of review has not changed since we implemented the ERRA framework and began reviewing utility procurement with the 2003 record period, nor did the assigned Commissioner's Scoping Memo indicate any intent to review this matter in this proceeding. SDG&E, as the applicant, has the burden of affirmatively establishing the reasonableness of all aspects of its request and proving that it is entitled to the Commission's actions and relief in rates that it is requesting. As with most utility related matters, the standard of proof that the applicant must meet is that of a preponderance of evidence. It is with these principles in mind that we review the various aspects of SDG&E's request.

3.1. SDG&E's Application and Testimony

SDG&E requests that the Commission find that its Application and supporting testimony demonstrates that SDG&E acted as follows:³

1. During 2010, SDG&E prudently administered and dispatched its [Utility Retained Generation] URG resources and portfolio of contracts, including [San Onofre Nuclear Generating Station] SONGS, the Miramar 1 and 2 combustion turbine (CT) generators (Miramar), the Palomar Energy Center combined-cycle plant (Palomar), allocated [California Department of Water Resources] CDWR contracts, power purchase agreements, [Qualifying Facilities] QFs, non-QF resources, and renewable energy resources, in compliance with SDG&E's Commission-approved procurement plan;

³ SDG&E Application at 11.

2. All 2010 entries and costs recorded in SDG&E's ERRa, TCBA, RPSMA and IEMA are appropriate and correctly stated; and
3. Rate recovery for 2010 costs entered in SDG&E's RPSMA and IEMA is authorized.⁴

SDG&E also requests that the Commission find that confidential treatment of the unredacted versions of the testimony, as requested in the declarations accompanying the testimony, is appropriate and authorized.

3.2. DRA

In its testimony, DRA made the following observations and recommendations regarding SDG&E's Application: ⁵

1. Non-QF Contract Administration

DRA does not object to SDG&E's administration and management of its non-QF contracts for the Record Period, and does not oppose the utility's request for recovery of non-QF contract related expenses.

2. QF Contract Administration

DRA does not object to SDG&E's administration and management of its QF contracts for the Record Period, and does not oppose the utility's request for recovery of QF contract-related expenses.

3. Least-Cost Dispatch

DRA finds that SDG&E failed to achieve least-cost dispatch due to under-utilization of utility-owned Palomar during the Record Period, which resulted in a less cost-effective mix of portfolio use. DRA recommends a total disallowance of \$7.2 million for the Record Period.

⁴ As noted above, SDG&E's MRTUMA is now being reviewed in A.12-01-014.

⁵ Exhibit DRA-1 at 1-2 through 1-3.

4. Utility Retained Generation

DRA has no objection at this time to the SDG&E's request for ERRA recovery for its URG fuel expenses. However, DRA's lack of objection does not apply to any portion of the outage that commenced in December 2010 at the Palomar Energy Center. Because the outage at Palomar Energy Center continued into the 2011 Record Year, DRA anticipates it will evaluate this outage as part of SDG&E's 2011 ERRA compliance review.

5. Balancing and Memorandum Account Review

DRA found no items requiring adjustment to SDG&E's ERRA, TCBA, IEMA, and RSPMA for the Record Period. DRA concludes that these balancing accounts were properly operated and that the recorded costs and expenses in these accounts are appropriate, correctly stated, and recoverable.

4. Discussion

In the following sections, we address the requests made in SDG&E's Application and testimony as well as the issues raised by DRA.

4.1. Least Cost Dispatch**4.1.1. SDG&E's Testimony**

In the testimony accompanying its Application, SDG&E describes its efforts to comply with the Commission's least-cost dispatch (LCD) requirements during the record period of January 1 through December 31, 2010. SDG&E notes that the Commission reiterated its LCD requirement in D.02-10-062, which authorized the Investor-Owned Utilities (IOUs) to resume full procurement responsibilities on January 1, 2003 and established standards of conduct by which an IOU must administer its portfolio, including the DWR contracts allocated to each IOU. As SDG&E acknowledges, Standard of Conduct (SOC) 4 states that

“[t]he utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner.”⁶

According to SDG&E, the goal of LCD is to minimize ratepayer cost for energy and ancillary services given prevailing market conditions. SDG&E states that it achieved this objective by planning, trading, scheduling and bidding in order to economically optimize the dispatch of its resources and market transactions to lower overall cost.⁷ SDG&E describes how it plans for serving load from its portfolio of utility owned resources, power purchase contracts, allocated DWR contracts and market transactions, pursuant to the Commission-approved LTPP in effect for the Record Period. SDG&E asserts that it managed the operational, dispatch and administrative functions of the allocated DWR contracts and prudently dispatched those contracts, along with its resources from its own portfolio, in a least-cost manner during the Record Period, and that it consistently followed the Commission’s directive to make dispatch decisions based on variable costs. For these reasons, SDG&E asserts that all costs recorded to its 2010 ERRA should be fully eligible for cost recovery through rates.

SDG&E also provides background on the implementation of the Market Redesign and Technology Upgrade (MRTU) by the California Independent System Operator (CAISO) in 2009. This new market implemented forward markets, which SDG&E describes as transferring responsibility to the CAISO to determine day-ahead and intraday unit commitment and dispatch decisions for resources based on economic bids:

⁶ Exhibit SDG&E-1 at AS-2, citing D.02-10-062 at 51 and Conclusion of Law 11, at 72.

⁷ *Id.* at AS-3.

The CAISO operates the day-ahead and intraday markets that establish commitment, energy and ancillary services obligations on resources in the system. These markets derive generation awards from supply and demand bids and self-schedules submitted by market participants. The results reflect a least cost dispatch solution across the entire system because the CAISO selects the mix of resources with the lowest total variable cost (as represented by their bids) to meet load requirements, subject to reliability and operational requirements.⁸

Finally, SDG&E also notes in its prepared testimony that “numerous constraints” impede SDG&E’s ability to perfectly adhere to the LCD principles that it describes: “SDG&E must balance its objective of cost minimization with a number of constraints both within and outside the portfolio” including generator operating limits, regulatory requirements, risk mitigation, and other factors discussed in detail in its testimony. According to SDG&E, “an after-the-fact review of a particular day’s dispatch may show a deviation from LCD because of the effects of such constraints.”⁹

4.1.2. DRA

In its written testimony and post-hearing briefs, DRA describes its review and analysis of SDG&E’s LCD testimony, as well as SDG&E’s responses to DRA data requests, and its notes from the meetings that it held with SDG&E prior to filing its testimony. DRA asserts that SDG&E failed to meet its burden to make a verifiable showing that its dispatch process and chosen bidding strategy for its resources resulted in the most cost-effective mix of total resources, thereby minimizing costs to ratepayers. According to DRA, such information/analysis is

⁸ *Id.* at AS-4.

⁹ *Id.* at AS-4 and AS-19.

simply absent from SDG&E's application. DRA notes that SDG&E did provide DRA with cost and dispatch information for its resources for the high, low and average load days in the 2010 Record Period, but concludes that while this sample day information was helpful as a starting point for DRA's analysis, it could not in itself reasonably allow DRA or the Commission to verify that SDG&E achieved LCD.¹⁰

DRA's testimony focuses on a detailed analysis of SDG&E's operation of Palomar in 2010 and concludes that SDG&E under-utilized Palomar during summer peak periods. DRA requests that the Commission find that SDG&E's dispatch of Palomar resulted in SDG&E failing to meet the Commission's LCD mandate for the 2010 Record Period. DRA requests that the Commission adopt DRA's recommended disallowance of \$7.2 million, which is derived from DRA's observation that Palomar was operated in fewer hours in 2010 than in 2008.¹¹

4.1.3. SDG&E's Rebuttal to DRA

SDG&E addressed DRA's analysis and corresponding recommendations in its filed rebuttal testimony.¹² According to SDG&E, DRA's understanding of LCD is critically flawed, and leads to conclusions that are fundamentally at odds with the Commission's objectives in establishing LCD standards in the first place. SDG&E also states that DRA's recommendation is factually contrary to Commission-adopted LCD standards, is inconsistent with the Commission-established standard of review for LCD (as set forth, for example, in D.05-01-054)

¹⁰ Exhibit DRA-1 at 4-1 and DRA Opening Brief at 14.

¹¹ *Id.*

¹² Exhibits SDG&E-4 and SDG&E-4-C.

and contradicts the Commission's approval of SDG&E's prior ERRA compliance applications (e.g., D.11-10-029). According to SDG&E, if DRA's recommendation were adopted by the Commission it would undermine the CAISO's ability to reliably operate the transmission system because it would reduce the flexibility of the generation fleet to meet real-time system requirements. Finally, SDG&E alleges that DRA's proposed disallowance of \$7.2 million is based on arbitrary and capricious assumptions that underscore the unsupported nature of its recommendation. SDG&E urges the Commission to reject DRA's recommendations regarding LCD and utilization of Palomar, and requests that the Commission approve SDG&E's ERRA costs incurred during the Record Period as submitted.

During hearings, SDG&E's rebuttal witness agreed that SDG&E has the burden of proof to show that it has achieved LCD, but could not provide any citation to SDG&E's direct or rebuttal testimony where SDG&E actually demonstrates that result. Rather, SDG&E relies on a detailed showing in its testimony that illustrates the processes it has in place to pursue a least-cost result, rather than providing, describing, or documenting the result itself.¹³

4.1.4. PG&E

In its opening brief, PG&E offered several arguments in opposition to DRA's analysis and recommendations regarding LCD.

First, PG&E states that DRA's reliance on 2008 capacity factors is flawed because it ignores the CAISO's implementation of MRTU in mid-2009. According to PG&E, MRTU had a significant impact on scheduling practices and

¹³ RT at 14-15.

LCD; for example, resources that may have been scheduled and operated more frequently in the pre-MRTU environment may be dispatched less often post-MRTU, where the CAISO is now optimizing resources in its integrated forward market at a statewide level. PG&E concludes that DRA's attempt to compare Palomar's capacity factors in 2008 and 2010 completely ignores the significant intervening event of MRTU which occurred in 2009.

Second, according to PG&E, DRA also ignores the fact that capacity factors can vary year-to-year based on system conditions (e.g., low load, significant hydro availability) or market conditions (e.g., the availability of lower cost resources in a given year). PG&E states that simply noting that capacity factor varied in a year-to-year comparison does not demonstrate a failure to achieve LCD: instead, there are numerous circumstances which can impact a facility's annual capacity factor regardless of LCD. PG&E states that DRA failed to consider any of these factors or to demonstrate that Palomar's 2010 capacity factor was solely the result of SDG&E's LCD strategy.

4.1.5. Discussion

The question of whether SDG&E dispatched its resources in a least-cost manner in compliance with our Standard of Conduct #4 is not a trivial matter. In 2010, SDG&E recorded approximately \$662 million in procurement expenses in its ERRA balancing account.¹⁴ This Commission, as well as DRA, has every reason to look closely at SDG&E's actions because SDG&E's effort to "get it right," even if only slightly unsuccessful, could increase customer costs by millions of dollars. Therefore, when SDG&E, in its application, asks the

¹⁴ Exhibit SDG&E-1, Table 1.

Commission to make findings that it prudently administered and dispatched its URG resources and portfolio of contracts in compliance with its Commission-approved procurement plan, SDG&E should expect that we will closely review that request.

As we explain in detail below, we have examined SDG&E's showing and considered DRA's analysis and its recommendations for a disallowance. While we commend DRA for its effort, we are not convinced that its analysis is accurate and therefore cannot accept its recommendations. However, DRA's showing has caused us to look closely at SDG&E's showing, and we find many aspects of that showing to be below our expectations, as we described those expectations in prior decisions. Nevertheless, we cannot find – based on the history of prior ERRA proceedings as well as the record in this proceeding – that SDG&E's actions during the 2010 Record Period merit any penalty or disallowance. In short, in preparing its application and testimony SDG&E followed procedures developed over the course of its seven prior ERRA compliance proceedings that, however inadequate they may appear upon close review, were developed in concert with DRA and produced results and compliance showings that were subsequently accepted by this Commission when it approved SDG&E's applications. DRA's efforts regarding the 2010 Record Period led to extensive litigation on the question of LCD that exposed the incomplete nature of SDG&E's showing, but that showing was assembled by SDG&E in the context of prior Commission decisions addressing prior Record Periods, which approved SDG&E's showing in every instance. Now, as a result of the more extensive testimony in this proceeding, we can clearly see the inadequacies in the approach taken by SDG&E to demonstrate compliance with our LCD standard. Therefore,

we take steps in this decision to ameliorate these shortcomings and provide specific direction to SDG&E to improve its showings in the future.

To illustrate our concerns, we begin with a review of the ERRA compliance process. In adopting the regulatory framework under which SDG&E, PG&E, and Southern California Edison Company (SCE) would resume full procurement responsibilities on January 1, 2003, D.02-10-062 ordered that the utilities comply with minimum standards of conduct, including SOC 4, which states:

The utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner. Our definitions of prudent contract administration and least cost dispatch are the same as our existing standard.¹⁵

In elaborating on SOC 4, we stated that:

Prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs.

Least-cost dispatch refers to a situation in which the most cost-effective mix of total resources is used, thereby minimizing the cost of delivering electric services....The utility bears the burden of proving compliance with the standard set forth in its plan.¹⁶

Once we established and clarified SOC 4 in D.02-10-062 and D.02-12-074, we implemented the ERRA compliance review process in a series of decisions

¹⁵ D.02-10-062, Conclusion of Law 11.

¹⁶ D.02-12-074, Ordering Paragraph 24b, emphasis added. The ellipsis indicates language deleted by D.03-06-076, at 27 and Ordering Paragraph 16.

addressing applications filed by each utility. Our decision on SCE's first compliance review application, D.05-01-054 in A.03-10-022, provided extensive guidance to SCE and other parties:¹⁷

Therefore, in the compliance review there are no ranges of possible outcomes. **The outcome or standard for review has been predetermined -- that is the lowest cost.** SCE must demonstrate that it has complied with this standard, by providing sufficient information and/or analysis in order for the Commission to verify that SCE's dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services. Based on analyses of SCE's showing and subsequent discovery, ORA or any other party may take the position that SCE did not fully comply with SOC 4. In such cases, we will judge the merits of the parties' positions and may impose disallowances and/or penalties, up to the maximum penalty cap.¹⁸

If the text quoted above fully captured the guidance provided by the Commission regarding LCD, we could find that SDG&E's showing for the 2010 Record Period was inadequate. SDG&E's showing in the Application before us establishes only that SDG&E attempted to achieve LCD; SDG&E has not documented that "the most cost-effective mix of total resources [was] used, thereby minimizing the cost of delivering electric services." This is inadequate, given our discussion in D.05-01-054, quoted above. As we noted earlier in this decision, SDG&E acknowledged that neither its testimony nor its workpapers includes a showing that SDG&E achieved LCD during the Record Period.

¹⁷ In D.05-04-036 in A.03-08-004, we found and concluded that the same scope of review of LCD that was adopted in A.03-10-022 for SCE should also apply to PG&E's ERRRA proceeding. See D.05-04-036 Finding of Fact and Conclusion of Law 4.

¹⁸ D.05-01-054 at 14, emphasis added. For the 2010 Record Period, the maximum penalty cap for SDG&E is \$ 13.662 million. See late-filed Exhibit SDG&E -9.

However, although the question of what showing was required to demonstrate success in achieving LCD was raised by the Commission in early ERRRA compliance decisions, it was never resolved. It is for this reason that based on the record before us at this time, we do not levy either a disallowance or penalty on SDG&E in this proceeding. In short, SDG&E has not made a complete showing of success, but DRA has not made a convincing, fact-based showing that a specific disallowance is warranted.

To explain why we will not penalize SDG&E for its incomplete showing regarding whether it achieved LCD during the 2010 Record Period, we must review the procedural history of ERRRA compliance proceedings that followed our first decisions in A.03-10-022 and A.03-08-004. From our vantage point today in 2014, we find that those annual proceedings unfolded with a disappointing lack of adherence to the guidance we provided in D.05-01-054 and D.05-04-036. The compliance review process appears to have foundered on this statement from D.05-01-054:

In this decision we have defined the scope of least-cost dispatch review and have indicated the utilities' responsibility for proving compliance with the least-cost dispatch standard. However, at this time, the Commission has not specified criteria that should be used to determine what constitutes least-cost dispatch compliance or what the utility needs to provide to meet its burden to prove such compliance. If there is a need for such criteria, it should be developed in a generic proceeding where all affected utilities, as well as interested parties, could participate. In the meantime, SCE and ORA should use a master data request process, as discussed later in this decision, as a means to reach some understanding on the types of information or analyses that would be useful in demonstrating SOC 4 compliance as it relates to least cost dispatch.

Further, if ORA or another party can demonstrate that SCE has not dispatched resources in a least-cost manner, the Commission will review that evidence and make appropriate adjustments for non-compliance. [D.05-01-054 at 15-16]

Again, from our vantage point today in 2014, it appears that in D.05-01-054 we provided clear direction regarding the required showing for LCD.

("Therefore, in the compliance review there are no ranges of possible outcomes. The outcome or standard for review has been predetermined -- that is the lowest cost") only to undercut that guidance later in the same decision *("In this decision we have defined the scope of least-cost dispatch review and have indicated the utilities' responsibility for proving compliance with the least-cost dispatch standard. However, at this time, the Commission has not specified criteria that should be used to determine what constitutes least-cost dispatch compliance or what the utility needs to provide to meet its burden to prove such compliance")*.

We created similar potential for confusion with our statements regarding burden of proof. First, we placed the burden on the utility *("SCE must demonstrate that it has complied with this standard, by providing sufficient information and/or analysis in order for the Commission to verify that SCE's dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services")* only to again undercut that guidance later in the decision *("Further, if ORA or another party can demonstrate that SCE has not dispatched resources in a least-cost manner, the Commission will review that evidence and make appropriate adjustments for non-compliance")*.

We appear to have compounded this problem with our proposed solutions:

If there is a need for such criteria, it should be developed in a generic proceeding where all affected utilities, as well as interested parties, could participate. In the meantime, SCE and ORA should use a master data request process, as discussed later in this decision, as a

means to reach some understanding on the types of information or analyses that would be useful in demonstrating SOC 4 compliance as it relates to least cost dispatch.

The generic proceeding suggested above never took place, and, as we have seen in the instant application, the master data request process that has been used instead has deteriorated into multiple rounds of discovery followed by soured relations between DRA and utility staff. Most troubling of all, our review of ERRR compliance proceedings since 2003, and the resulting decisions, indicates that the guidance quoted above succeeded mainly in providing the utilities an opportunity to shift the burden of proof onto ORA and, now, DRA. The utilities took advantage of that opportunity and, for reasons that are not clear to us, DRA accepted the burden.

SDG&E's showing regarding LCD is primarily based on its responses to questions in the Master Data Request providing extensive information about the "highest, lowest and average energy load days" during the record period. This approach was developed in collaboration with DRA over the course of several ERRR compliance proceedings. We can see that this information may have some limited educational value. However, given our direction in D.05-01-054 and D.05-04-036 that the utility must provide "sufficient information and/or analysis in order for the Commission to verify that [the utility's] dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services," it is difficult to understand why any utility would think that three days of data would suffice, nor why DRA would agree to such an

approach. With respect to SDG&E, DRA has yet to make a case for a disallowance in any of the preceding ERRA compliance proceedings.¹⁹

Regarding DRA's testimony on SDG&E's LCD showing for 2010, as we summarized above, DRA has devised an analytical approach that involves positing a theoretical metric, then reviewing SDG&E's actual results against that metric, finding those results lacking, and recommending a disallowance based on the gap between the metric and SDG&E's actual results. DRA has taken this approach, of basing a disallowance calculation on metrics rather than direct evidence, in prior ERRA review cases, and we rejected the resulting recommendation.²⁰ We do so again here, but we repeat that we commend DRA for its efforts, especially in the context of the challenging analytical exercise it agreed to take on, in the absence of a fully supported SDG&E showing of the extent to which it achieved LCD, a showing that logic suggests should have been provided with SDG&E's application and testimony when it was initially filed in June, 2011.

Even acknowledging some possible confusion due to the conflicting text quoted above from D.05-01-054, this outcome--where the burden of proof is shifted onto the party protesting the utility compliance applications--was clearly not what the Commission intended in D.05-01-054. Given the millions of dollars in revenues at stake, and the commensurate impact on customer bills, we are most disappointed that the utilities -- which certainly prior to the implementation

¹⁹ See D.04-09-003, D.06-04-020, D.06-12-019, D.08-01-027, D.09-01-026, D.10-02-018, and D.11-10-029 in A.03-12-010, A.05-06-014, A.06-06-005, A.07-06-005, A.08-05-036, A.09-05-018, and A.10-06-001, respectively.

²⁰ See, for example, D.05-02-006 in A.04-04-005, and D.06-01-007 in A.05-04-004. Both are ERRA compliance reviews for SCE.

of MRTU by the CAISO possessed all the information needed to show whether or not they complied with SOC 4--did not act in better faith to develop and support a workable compliance review process. The utilities also have the staffing necessary to develop this showing, because we have funded that staffing as part of their annual administrative expenses for all procurement functions. In 2010, that budget for SDG&E reached \$ 6.8 million.²¹ It is not clear how much of these funds were directed by SDG&E toward an effort to determine whether the amount paid by SDG&E's customers for their electricity in 2010 reflects SDG&E's success in "minimizing the cost of delivering electric services" as we directed in D.05-01-054.

4.1.5.1. Workshop on Least-Cost Dispatch

In summary, although SDG&E's LCD showing is consistent with its showing for previous Record Periods and we acknowledge that the Commission made no disallowances on previous SDG&E LCD showings, we conclude that SDG&E's own testimony in this Record Period demonstrates that its showing is not fully consistent with Commission direction regarding the showing necessary to demonstrate successful least-cost dispatch. Faced with this discrepancy between our own past actions and the incomplete nature of SDG&E's showing for this Record Period, we conclude that we should accept SDG&E's LCD showing for the 2010 record period as adequate but clarify our expectations for future showings.

Based on the guidance we provided in our earliest decisions on the IOU's ERRRA compliance showings, a complete showing of LCD by SDG&E should

²¹ Exhibit SDG&E-11.

include precise numerical calculations that either demonstrate that SDG&E achieved LCD during the Record Period, or quantify the amount of overspending by SDG&E. We should leave this proceeding open and direct the Commission's Energy Division to facilitate a workshop where SDG&E and other interested parties can work together to develop proposed criteria that should be used to determine what constitutes LCD compliance, and the resulting methodology SDG&E should follow to assemble a showing to meet its burden to prove such compliance. Following the workshop, SDG&E shall file and serve a report in this docket for our consideration. We intend to review the results in time to enable SDG&E to implement the methodology to quantify the degree to which it achieved, or did not achieve LCD during the 2014 Record Period and include that showing in its ERRA compliance application in 2015.²² If we find that SDG&E has not worked collaboratively with other parties to develop the material we are requesting, we will conclude that SDG&E has declined to make a showing of LCD, and consider imposing penalties for SDG&E's non-compliance with SOC 4, as we first contemplated in D.02-12-074. Therefore, this proceeding shall remain open for the purpose of reviewing SDG&E's post-workshop report.

In conclusion, while we find in this decision that—in the absence of a showing the contrary—SDG&E's LCD activities complied with its Conformed

²² We note that we ordered similar workshops in our decisions addressing the 2010 ERRA compliance applications of PG&E and SCE (D.13-10-041 in A.11-02-011 and D.13-11-005 in A.11-04-001, respectively). Those workshops have since taken place. Each utility has filed its respective workshop report, and the Commission's ORA has filed written comments on each report. In organizing the upcoming workshop for SDG&E, Energy Division staff should work with SDG&E, ORA and other parties to ensure that the results of the earlier workshops are reflected in SDG&E's workshop presentation and subsequent report.

2006 Long-Term Procurement Plan, we caution SDG&E to take seriously our concerns regarding the shortcomings of its showing on LCD. Our concern is that SDG&E not only plan to “get it right” and minimize procurement costs for the benefit of its customers, but that it verify that its plans and intentions have succeeded, and that it take corrective actions when its efforts fall short. The most productive use of the annual ERRA compliance proceedings is to help SDG&E, as well as PG&E and SCE in their own proceedings, to identify best practices and areas for improvement when those opportunities exist. We will emphasize this in future proceedings, while retaining the right and obligation to levy disallowances or penalties if warranted.

4.2. Utility-Retained Generation

As part of our annual ERRA compliance proceedings, we review the applicant’s testimony on outages and fuel procurement for its own generation resources, or “utility-retained generation.”

4.2.1. SDG&E’s Testimony

In its testimony, SDG&E asserts that during the 2010 record period, it operated and maintained its utility-owned generation resources (Palomar, Miramar 1 and 2) in a reasonable and prudent manner, consistent with good utility practice.²³ SDG&E states that even though it performed maintenance on its generation resources consistent with good utility practice, these units did experience forced outages from time to time in 2010 due to unforeseen operational problems. SDG&E lists six forced outages in 2010 of 24 hours or greater in Appendix 1 of Exhibit SDG&E-1. SDG&E states that when it

²³ Exhibit SDG&E-1 at AS-8.

experienced a forced outage on Palomar, Miramar 1 or 2, or any other resource in its portfolio, it responded to the event based on LCD principles: “to the extent feasible based on scheduling, market liquidity and other constraints, SDG&E sought to replace lost generation due to forced outages at the minimum cost.”²⁴

4.2.2. DRA

In its testimony, DRA states that it reviewed generation outage information, including the underlying factors for certain outages, to ensure that ratepayers did not suffer any economic losses due to any unreasonable URG management errors or omissions. DRA also reviewed SDG&E’s internal audit program for its URG facilities.²⁵ With one exception, DRA states that it has no objection at this time to the SDG&E’s request for ERRR recovery for its URG fuel expenses. The exception relates to an outage that began in December 2010 at Palomar Energy Center, and lasted until March 25, 2011. DRA anticipates that it will evaluate this outage as part of SDG&E’s 2011 Record Year ERRR compliance review. DRA does, however, expand its testimony to find fault with SDG&E’s application and prepared testimony, stating that SDG&E did not justify its outages, did not justify its internal auditing program, and declined to provide full and complete responses to DRA discovery.²⁶ DRA concludes that “given the paucity of information SDG&E provided for its URG outages, DRA does not make any explicit finding of reasonableness or unreasonableness of SDG&E’s URG outages during the Record Period.”²⁷

²⁴ *Ibid.*

²⁵ Exhibit DRA-1 at 5-1.

²⁶ *Id.* at 5-4 through 5-5.

²⁷ *Ibid.*

4.2.3. SDG&E's Rebuttal to DRA

SDG&E addressed DRA's URG testimony in its filed rebuttal testimony, stating that SDG&E believed it needed to rebut DRA's general statements challenging SDG&E's justification of outages, evidence of internal controls and responses to data requests.²⁸ In its rebuttal testimony, SDG&E provides a more thorough and detailed explanation and illustration of URG outages and internal controls during 2010 than it provided in its direct testimony, intended to refute DRA's assertion that SDG&E declined to provide full and complete responses to DRA discovery regarding URG outages. SDG&E provides copies of its responses to DRA's Master Data Request questions, as well as responses to DRA's follow-up data requests. SDG&E states that this material supports its position that DRA's general criticisms should be disregarded as inconsistent with the record in this proceeding.

4.2.4. Discussion

Our own review of SDG&E's rebuttal testimony, and the additional supporting material attached to that rebuttal testimony, leads us to agree with SDG&E that DRA's criticisms are inconsistent with the record in this proceeding. We do note, however, that the type of detailed narrative showing offered in SDG&E's rebuttal should be made in an applicant's primary showing, rather than in rebuttal. As we noted at the outset of this decision, SDG&E, as the applicant, has the burden of affirmatively establishing the reasonableness of all aspects of its request and proving that it is entitled to the Commission's actions and relief in rates that it is requesting. SDG&E only provided testimony in sufficient depth to

²⁸ Exhibits SDG&E-6 and SDG&E-6-C.

facilitate our own review in rebuttal, when provoked to do so by the criticisms leveled by DRA.

4.3. Expenses Recorded in ERRa, TCBA and SDG&E's Contract Administration Activities

4.3.1. SDG&E's Testimony

In its testimony, SDG&E describes the expenses that are recorded in its ERRa and TCBA for the record period of January 1, 2010 through December 31, 2010.²⁹ SDG&E also explains the contract administration activities during the record period associated with SDG&E's power purchase agreements. SDG&E asserts that it recorded expenses to ERRa in conformance with D.02-12-074.

4.3.2. DRA

DRA reviews SDG&E's non-qualifying facility contract administration in Chapter 2 of Exhibits DRA-1 and DRA-1-C, and reviews qualifying facility contract administration in Chapter 3 of Exhibits DRA-1 and DRA-1-C.

Regarding SDG&E's non-qualifying facility contract administration, DRA states that it has no objection to SDG&E's non-QF contract administration processes, contract activity, and training programs for the Record Period.

Regarding qualifying facility contract administration DRA states that based on its review of SDG&E's ERRa testimony, workpapers, and responses to data requests related to its administration and management of its QF contracts, DRA does not object to SDG&E's administration of its QF Power Purchase Agreements (PPAs) and the associated QF-related costs it incurred during the record period.

²⁹ Exhibits SDG&E-3 and SDG&E-3-C.

4.3.3. Discussion

Based on the testimony of SDG&E and the testimony of DRA, and our review of the record, we conclude that SDG&E prudently administered its QF and non-QF contracts during the Record Period. SDG&E's costs associated with the administration of its QF and non-QF contracts during the Record Period were reasonable.

4.4. Energy Resource Recovery Account (ERRA) and Transition Cost Balancing Account (TCBA) and other ERRA-related accounts

As noted above, pursuant to D.02-10-062 and D.02-12-074, the purpose of the ERRA is to provide recovery of SDG&E's energy procurement costs associated with serving SDG&E's bundled service customers. Pursuant to D.06-12-019, the TCBA records the eligible above-market power costs and the revenues received from SDG&E's Competition Transition Charge (CTC) rate. On a monthly basis, the TCBA compares the above-market power costs with the revenue from the CTC rate component. The costs that are recovered in the TCBA generally relate to the above-market portion of certain QFs and purchase power costs eligible for recovery under Assembly Bill 1890.

4.4.1. SDG&E's Testimony

In its direct testimony, SDG&E reviews the recorded transactions and related cost recovery in its ERRA and TCBA.³⁰ Pursuant to D.02-10-062 and D.02-12-074, SDG&E seeks approval of the entries and calculations in its ERRA for the period January 2010 through December 2010 and requests that the Commission find these entries and calculations appropriate, correctly stated and

³⁰ Exhibits SDG&E-2 and SDG&E-2-C.

recoverable. Pursuant to D.06-12-019, SDG&E seeks approval of the entries recorded to the TCBA, also for the period January 2010 through December 2010 and requests that the Commission find these entries and calculations appropriate, correctly stated and recoverable in accordance with applicable Commission policy and decisions.

SDG&E also includes two other accounts for review. First, the IEMA was established pursuant to D.04-12-048 and D.05-07-039, in order to record third-party costs associated with the use of Independent Evaluators in the utility's long-term procurement activities Renewable Portfolio Standard (RPS) programs. Second, the RPSMA was established pursuant to D.06-10-050, where the Commission required load-serving entities such as SDG&E to supplement Commission resources and authorized the Commission's Executive Director to hire and manage a contractor, or contractors, to provide technical and other support to assist staff. The Commission sends approved invoices for the RPS third-party support costs to PG&E, SCE and SDG&E for payment of these costs. D.06-10-050 authorized SDG&E to establish the RPSMA to record the approved costs.

SDG&E requests that the Commission find the 2010 entries recorded in the IEMA and RPSMA appropriate, correctly stated and recoverable in accordance with applicable Commission policy and decisions. SDG&E also requests approval for appropriate transfers of costs in these memorandum accounts. SDG&E states that it has made the entries to these regulatory accounts in accordance with its adopted tariffs and in compliance with relevant Commission decisions.

4.4.2. DRA

DRA reviewed the operation of the ERRA account, the TCBA, the IEMA, and the RPSMA. According to DRA, the objective of its review was to determine whether entries recorded in the accounts are appropriate, supported, and correctly stated.

DRA's review procedures included the following:

- Reviewed SDG&E's application testimony, exhibits, and workpapers.
- Reviewed SDG&E's responses to Data Requests.
- Examined, on a test basis, samples of balancing account items selected judgmentally to determine whether adequate support exists for amounts recorded in the filing.³¹
- Reviewed the mathematical accuracy of accounting worksheets and supporting documentation.
- Reviewed monthly interest rates used and the calculations.
- Reviewed to determine whether recorded revenues and costs are supported and correctly stated.
- Performed analytical reviews of monthly entries into the balancing accounts.
- Reviewed, on a sample test basis, source documents supporting revenues, costs, and expenses recorded.
- Examined on a test basis to determine whether adequate support exists (e.g., invoices, general ledger entries, decisions, etc.) for amounts recorded.
- Checked the mathematical accuracy of accounting worksheets and supporting documentation.

³¹ Exhibit DRA-1 at 6-1. According to DRA, a "judgment sample" is a type of nonrandom sample, which is selected based on the judgment (opinion) of the auditor.

- Checked, on a test basis, items recorded in the filing to SDG&E's general ledger.

Following its review, DRA concluded that it noted no items requiring adjustment to SDG&E's ERRA, TCBA, IEMA, and RPSMA for the Record Period. DRA states that these balancing and memorandum accounts were properly operated and that the recorded costs and expenses in these accounts are appropriate, correctly stated, and recoverable.

4.4.3. Discussion

Based on the testimony of SDG&E and DRA and our own review of these accounts, we conclude that the operation of, and entries in, the ERRA, TCBA, IEMA and RPSMA ratemaking accounts presented in Exhibits SDG&E-2 and SDG&E-2-C, are appropriate, correctly stated and recoverable in accordance with Commission policy and decisions. SDG&E should be authorized to make appropriate transfers of costs in these memorandum accounts.

5. Ruling Amending Scope, Setting Aside Submission and Requesting Additional Information

On May 1, 2013, the assigned ALJ issued a Ruling Setting Aside Submission and Requesting Additional Information. In that ruling, the ALJ noted that in this proceeding, parties devoted considerable energy in discovery, filed testimony, hearings, and briefs to the question of whether SDG&E achieved LCD of its energy resources. As noted above, LCD is governed by SOC 4, which directs that the utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner. In D.02-12-074, the Commission addressed the issue of compliance with SOC 4 and set each utility's maximum disallowance risk equal to "two times their annual administrative expenses for all procurement functions, including those related to CDWR contract administration, utility-retained generation, renewables, QFs, demand

side resources, and any other procurement resources.” The Commission determined that the exact dollar amount for the maximum potential disallowance will be based on each utility’s procurement-related administrative expenses, as determined in each utility’s general rate case. However, that value for the 2010 record period was not part of the record in this proceeding; therefore, submission of the proceeding was set aside and the record reopened for the purpose of receiving from SDG&E the exact dollar amount that is equal to two times its 2010 administrative expenses for all procurement functions, including those related to CDWR contract administration, utility-retained generation, renewables, QFs, demand-side resources, and any other procurement resources.

As noted above, SDG&E provided this information on May 15, 2013 and SDG&E’s response is marked as Exhibit SDG&E-9.

6. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission’s Rules of Practice and Procedure. Comments were filed on June 26, 2014 by SDG&E, and reply comments were filed on July 1, 2014 by ORA. The comments that focused on factual, technical, and legal errors have been considered; no substantive changes to the ALJ’s proposed decision were necessary.

7. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Stephen C. Roscow is the assigned ALJ in this proceeding.

Findings of Fact

1. SDG&E's application in this proceeding was accompanied by testimony asserting the reasonableness of its LCD, power procurement and contract administration activities for the 2010 Record Period.

2. SDG&E's showing regarding LCD is primarily based on its responses to questions in the Master Data Request providing extensive information about the "highest, lowest and average energy load days" during the Record Period.

3. SDG&E assembled its showing on LCD based on prior years' applications but the showing assembled by SDG&E was not fully consistent with our direction regarding the showing necessary to demonstrate successful LCD. SDG&E acknowledges that neither its testimony nor its workpapers includes a showing that SDG&E achieved LCD during the Record Period.

4. SDG&E provides a more thorough and detailed explanation and illustration of URG outages and internal controls during 2010 in its rebuttal testimony than it provided in its direct testimony.

5. One forced outage at the Palomar Energy Center began in December 2010 and extended into 2011 record period.

6. DRA reviewed and has no objection to SDG&E's non-QF contract administration processes, contract activity, and training programs for the 2010 record period.

7. DRA reviewed and has no objection to SDG&E's administration and management of its QF PPAs and the associated QF-related costs, for the 2010 record period.

8. DRA reviewed SDG&E's ERRR, TCBA, IEMA, and RPSMA and for the 2010 record period and concluded that it noted no items requiring adjustment. DRA states that these balancing and memorandum accounts were properly

operated and that the recorded costs and expenses in these accounts are appropriate, correctly stated, and recoverable.

Conclusions of Law

1. SDG&E's LCD showing is consistent with its showing for previous Record Periods.

2. The Commission made no disallowances on previous SDG&E LCD showings, but SDG&E's own testimony in this Record Period demonstrates that its showing is not fully consistent with Commission directions regarding the showing necessary to demonstrate successful LCD.

3. We should accept SDG&E's LCD showing for the 2010 Record Period as adequate but clarify our expectations for future showings.

4. A compliance showing by a utility should demonstrate that the utility complied with Commission orders and standards.

5. A complete showing of LCD by SDG&E should include precise numerical calculations that demonstrate that SDG&E achieved LCD during the Record Period, or quantify the amount of overspending by SDG&E.

6. SDG&E should quantify the degree to which it achieved, or did not achieve LCD during the 2014 Record Period and include that showing in its ERRA compliance application in 2015.

7. SDG&E operated and maintained its utility-owned generation resources (Palomar, Miramar 1 and 2) in a reasonable and prudent manner during 2010.

8. Review of SDG&E's year-end outage at Palomar (beginning in December 2010 and extending into 2011) should be conducted during SDG&E's ERRA compliance proceeding for the 2011 record period.

9. SDG&E reasonably administered its non-QF contracts and QF contracts during the 2010 record period, and should recover the requested associated costs.

10. The operation of, and entries in, the ERRRA, TCBA, IEMA and RPSMA ratemaking accounts presented by SDG&E in Exhibits SDG&E-2 and SDG&E-2-C are appropriate, correctly stated, and in compliance with Commission decisions.

O R D E R

IT IS ORDERED that:

1. The Commission's Energy Division shall facilitate a workshop where San Diego Gas and Electric Company (SDG&E) and other interested parties shall develop proposed criteria that should be used to determine what constitutes least-cost dispatch compliance, and the resulting methodology SDG&E should follow to assemble a showing to meet its burden to prove such compliance.
2. Following the workshop, San Diego Gas and Electric Company shall prepare a report summarizing the outcome, and file and serve the report in this docket for our consideration.
3. San Diego Gas and Electric Company shall quantify the degree to which it achieved, or did not achieve least-cost dispatch during the 2014 record period and include that showing in its Energy Resource Recovery Account compliance application in 2015.
4. Review of San Diego Gas and Electric Company's year-end outage (beginning in December 2010 and extending into 2011) at Palomar shall be conducted during the Energy Resource Recovery Account compliance proceeding for the 2011 record period.
5. The entries recorded in San Diego Gas & Electric Company's Energy Resource Recovery Account for 2010 are reasonable and approved.

6. The entries recorded in San Diego Gas & Electric Company's Transition Cost Balancing Account for 2010 are reasonable and approved.

7. San Diego Gas and Electric Company is authorized to recover in rates the 2010 recorded costs of \$505,958 in the Independent Evaluator Memorandum Account.

8. San Diego Gas and Electric Company is authorized to recover in rates the 2010 recorded costs of \$67,116 in the Renewable Portfolio Standard Memorandum Account.

9. The May 15, 2013 "Response of San Diego Gas and Electric Company to Ruling Amending Scope, Setting Aside Submission and Requesting Additional Information," identified as Exhibit SDG&E-9, is received into evidence in this proceeding.

10. All information placed under seal in this proceeding shall remain sealed for a period of three years from the effective date of this order. During that period, the confidential Exhibits shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge. If San Diego Gas & Electric Company believes that further protection of the information kept under seal is needed, it may file a motion stating the justification for further withholding of the information from public inspection, or for such other relief as the Commission's rules may then provide. This motion shall be filed no later than one month before the expiration date of the three-year period adopted in this order.

11. Application 11-06-003 shall remain open.

This order is effective today.

Dated _____, at San Francisco, California.

Appendix A

Service List

***** SERVICE LIST A1106003*****

Last Updated on 04-JUN-2014 by: JVG

***** PARTIES *****

Matt Miley
CPUC
LEGAL DIVISION
EMAIL ONLY
EMAIL ONLY CA 00000
(415) 703-3066
mm2@cpuc.ca.gov
For: ORA (formerly DRA)

Charles R. Middlekauff
PACIFIC GAS AND ELECTRIC COMPANY
LAW DEPARTMENT
PO BOX 7442, MC-B30A-2475
SAN FRANCISCO CA 94120
(415) 973-6971
crmd@pge.com
For: Pacific Gas and Electric Company

John A. Pacheco
Attorney
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET, HQ12B
SAN DIEGO CA 92101-3017
(619) 699-5130
JPacheco@SemptraUtilities.com
For: San Diego Gas & Electric

***** STATE EMPLOYEE *****

Luisa Elkins
Attorney
CALIFORNIA PUBLIC UTILITIES COMMISSION
EMAIL ONLY
EMAIL ONLY CA 00000
(415) 703-1219
luisa.elkins@cpuc.ca.gov

Chris Ungson
CPUC
EMAIL ONLY
EMAIL ONLY CA 00000
(415) 703-2574
cu2@cpuc.ca.gov

Ke Hao Ouyang
Regulatory Analyst - Dra
CPUC
EMAIL ONLY
EMAIL ONLY CA 00000
(415) 703-1235
kho@cpuc.ca.gov

Robert Haga
Legal Division
RM. 5137
505 Van Ness Avenue
San Francisco CA 94102 3298
(415) 703-2538
rwh@cpuc.ca.gov

Donald J. Lafrenz
Energy Division
AREA 4-A
505 Van Ness Avenue
San Francisco CA 94102 3298
(415) 703-1063
dlf@cpuc.ca.gov

Yakov Lasko
Office of Ratepayer Advocates
RM. 4101
505 Van Ness Avenue
San Francisco CA 94102 3298
(415) 703-2287
ynl@cpuc.ca.gov

Ravinder Mangat
Office of Ratepayer Advocates
RM. 4102
505 Van Ness Avenue
San Francisco CA 94102 3298
(415) 355-5556
rm1@cpuc.ca.gov

Rachel Ann Peterson
Executive Division
RM. 5202
505 Van Ness Avenue
San Francisco CA 94102 3298
(415) 703-2872
rp1@cpuc.ca.gov

Stephen C. Roscow
Administrative Law Judge Division
RM. 5010
505 Van Ness Avenue
San Francisco CA 94102 3298
(415) 703-1053
scr@cpuc.ca.gov

Mitchell Shapson
Legal Division
RM. 4107
505 Van Ness Avenue
San Francisco CA 94102 3298
(415) 703-2727
sha@cpuc.ca.gov

***** SERVICE LIST A1106003*****

Last Updated on 04-JUN-2014 by: JVG

Michael Yeo
Office of Ratepayer Advocates
RM. 4103
505 Van Ness Avenue
San Francisco CA 94102 3298
(415) 703-5248
mey@cpuc.ca.gov

***** INFORMATION ONLY *****

Hilary Corrigan
CALIFORNIA ENERGY MARKETS
425 DIVISADERO ST. STE 303
SAN FRANCISCO CA 94117-2242
(415) 963-4439 X303
cem@newsdata.com

DAVIS WRIGHT TREMAINE LLP
EMAIL ONLY
EMAIL ONLY CA 00000
dwtcpucdockets@dwt.com

Mce Regulatory
MARIN CLEAN ENERGY
EMAIL ONLY
EMAIL ONLY CA 00000
regulatory@mceCleanEnergy.org

MRW & ASSOCIATES, LLC
EMAIL ONLY
EMAIL ONLY CA 00000
(510) 834-1999
mrw@mrwassoc.com

Regulatory File Room
PACIFIC GAS & ELECTRIC COMPANY
PO BOX 7442
SAN FRANCISCO CA 94120
(415) 973-4295
cpuccases@pge.com

Alice L. Reid
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, RM 3081-B30A
SAN FRANCISCO CA 94105
(415) 973-2966
ALR4@pge.com

Georgetta J. Baker
JOHN A. PACHECO
Attorney
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET, HQ 12
SAN DIEGO CA 92101-3017
(619) 699-5064
GBaker@SempraUtilities.com

Jamie K. York
Regulatory Case Admin.
SAN DIEGO GAS & ELECTRIC COMPANY
8330 CENTURY PARK COURT, CP32D
SAN DIEGO CA 92123
(858) 654-1739
JYork@SempraUtilities.com

Shirley Amrany
Regulatory Case Admin.
SAN DIEGO GAS & ELECTRIC COMPANY
8330 CENTURY PARK COURT, CP-32D
SAN DIEGO CA 92123
(858) 650-6136
SAmrany@SempraUtilities.com

Central Files
SDG&E/SOCALGAS
8330 CENTURY PARK COURT, CP31-E
SAN DIEGO CA 92123
(858) 654-1240
CentralFiles@SempraUtilities.com

Case Administration
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE / PO BOX 800
ROSEMEAD CA 91770
(626) 302-1063
case.admin@sce.com

(End of Service List)